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Consideration of reports of States parties

List of issues in relation to the report submitted by Tajikistan under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Addendum

Replies of Tajikistan to the list of issues*

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* The present document is being issued without formal editing.

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Replies to the questions relating to the initial report of the Republic of Tajikistan on measures taken in implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Paragraph 1

1. In the Republic of Tajikistan, the implementation of the Optional Protocol is mainly the responsibility of the Ministry of Defence, the Ministry of Internal Affairs, the Ministry of Education and Science, the Ministry of Health and Social Protection, the Ministry of Labour, Migration and Employment, the Committee for Youth, Sport and Tourism, the judicial system, the Office of the Public Prosecutor and other interested bodies, each within its sphere of competence. The Ministry of Education and Science is designated to be the authorized State body for the protection of children's rights. The principal governmental entity coordinating the activities of the central executive bodies, local government authorities, self-governing bodies of towns and villages, enterprises, institutions and other organizations responsible for implementing the international obligations of Tajikistan with regard to children's rights is the Government Commission on Children's Rights, a standing inter-agency body, which, in line with its mandate, implements government policy on protecting children's rights and interests and is responsible for all questions relating to children's education and upbringing.

2. There are a number of civil society institutions in Tajikistan that focus on issues relating to the Optional Protocol, which are also covered by the media. Mechanisms are being introduced to ensure that there is coordination between government entities and civil society organizations in carrying out periodic assessments of the progress made in implementing the Optional Protocol. The country does not currently have any registered specialized human rights institutions at the national level that have the specific objective of monitoring the implementation of the Optional Protocol. In practice, however, this role is performed by a large number of registered independent voluntary associations and human rights organizations that engage in activities aimed at protecting the rights of individuals, including children and young people under the age of 18 years. They include the Legal Initiative foundation, the national Save the Children organization, the Tajikistan office of Save the Children UK and others.

Paragraph 2

3. Under article 19 of the General Military Duty and Military Service Act, a male citizen aged between 18 and 27 years who is or should be registered for military service is liable to be called up to serve in the armed forces of Tajikistan. The country's legislation does not provide for the conscription of 16-year-old children, even in situations of emergency.

Paragraph 3

4. In order to give boys an all-round education while preparing them for military service, an upper secondary school has been established by the Ministry of Defence to provide boys with military training, in addition to their normal studies, that will teach or enhance military skills.

5. Under a programme operated by the Ministry of Education and Science, entry into the military school for youths between 15 and 16 years of age who hold a Tajik passport is voluntary. A young man who has successfully completed his education in the military school is entitled, on reaching the age of 18 years, to enter a professional military academy without taking an examination.

Paragraph 4

6. Under the educational programme provided in the Ministry of Defence Military Institute, instruction is given in the use of various combat weapons.

Paragraph 5

7. With a view to implementing the 2013-2020 Programme for Human Rights Education, which was approved under a government decision of 12 December 2012, the Coordinating Council of the Commissioner for Human Rights of Tajikistan drew up, approved and introduced comprehensive educational programmes to ensure that the subject of human rights is taught in all such establishments, with a view to improving the level of education among senior personnel, in line with the requirements of the country's legislation and international standards and with due regard for the principles, aims and goals of the second phase (2010-2014) of the World Programme for Human Rights Education. The programmes incorporate human rights education into the educational system, with preparatory courses and further training for teachers, judges, civil servants, law enforcement officers and military personnel at every level. In particular, in order to ensure that military personnel get regular human rights training, such training is currently provided by the Ministry of Defence Military Institute. The importance of the Optional Protocol is recognized with the introduction of a separate subject, entitled "Respect for human rights in time of armed conflict".

Paragraph 6

8. Tajikistan does not engage in the unlawful recruitment of children into the armed forces. There are no non-State armed groups.

Paragraph 7

9. Foreign refugee, asylum-seeking and unaccompanied children are not subjected to discrimination. Measures are taken to prevent such children from entering into military conflict or joining armed groups abroad.

Paragraph 8

10. Under article 21 of the Constitution, victims' rights are protected by law. Pursuant to article 42 of the Code of Criminal Procedure, the State guarantees victims access to justice and compensation for damage suffered. A person may also launch a civil complaint for compensation for moral damage. In addition to the guarantee of judicial protection provided by the Constitution and other legislation, Tajikistan has assumed a range of international human rights commitments, under which it is obliged to provide legal assistance at every stage of criminal proceedings. To that end, a framework for the provision of free legal assistance was approved under a government decision of 2 July 2015. The framework provides for free legal assistance for various categories of citizen, including minors who do not have a tutor or guardian, managed under a project of the United Nations Development Programme entitled "Supremacy of the law and access to justice", with financial support from the Swiss Agency for Development and Cooperation.

11. The Criminal Code contains a number of provisions to punish acts involving illegal recruitment into the armed forces of Tajikistan. The actions, or failure to act, of a person in specific circumstances may be classified as an offence under separate articles of the Code: article 314 (Abuse of authority), article 316 (Improper exercise of authority), article 317 (Misappropriation of official powers), article 323 (Falsification of documents by an individual) and article 322 (Negligence).

12. The 2013-2020 Programme for Human Rights Education is currently being implemented. In addition, a programme to reform the child justice system 2017-2021 has been developed, which will involve a careful consideration of the existing legislation, and its subsidiary regulations, such as instructions, orders and decisions, with a view to reforming the justice system for children, including children who are witnesses or victims of offences and violence. That has led to a number of other relevant amendments to the law and the establishment of a data-collection mechanism on children in conflict with the law and children who are witnesses or victims of offences and violence. Plans for mandatory professional training in human rights for officers of law enforcement agencies and prison establishments have also been developed and put into effect.

Paragraph 9

13. The Government is taking steps to prevent children or families with children joining military groups abroad. To that end, amendments have been made to the Criminal Code, providing for the exemption from criminal liability of persons who have voluntarily refused to participate unlawfully in armed conflict or military action in the territory of other States.

14. Campaigns to raise public awareness have been mounted on a regular basis.

15. In the territory of the Syrian Arab Republic, Iraq and other States where armed conflicts are currently in progress, there are 234 families among a total of 840 Tajik nationals. These families comprise 309 men, 279 women, 110 girls and 142 boys. As a result of measures taken between 2015 and 2017, 19 families, comprising 17 men, 21 women, 21 girls and 20 boys, have been repatriated to Tajikistan. Only 61 Tajik nationals are participating or intending to participate in the armed conflicts in the territory of Iraq or the Syrian Arab Republic. Measures to repatriate other families are in hand.

Paragraph 10

16. There is no separate article in the Criminal Code providing for criminal liability for the recruitment or use of persons under the age of 18 years in military activity. However, article 401 (1) of the Code provides for criminal liability for the unlawful involvement or participation of Tajik nationals and stateless persons in armed groupings, armed conflict or military activities in the territory of other States. The recruitment, involvement or use of persons under 18 years of age in military activities is covered by that article.

17. The question of the extradition of offenders depends on the specific circumstances of each case and is determined on the basis of various conventions and agreements, including the United Nations Convention against Transnational Organized Crime and bilateral extradition agreements.